

Housing and Social Services

Equality Impact Assessment of Policy On Mental Capacity

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Document Sponsor	Name	David Clear
	Job Title	Assistant Director Mental Health & Learning Disability
	Division	Housing and Social Service
Author	Name	Michael Watson
	Job Title	Policy Officer
	Team	Policy and Service Development
	Contact Tel:	651957

Amendment Record

Date	Issue No.	Section/Page	Details of Change	Authorised By:

Amendment Notes

- Documents at draft status are to use letter designations to denote issue status: a, b, c, etc.
- Documents at full issue status are to use number designations to denote issue status: 01,02,03, etc.
- On full issue the draft amendment record should be deleted from the above table.
- Notification of the amendment must be sent to the person maintaining the Central Register.

EQUALITY IMPACT ASSESSMENT

Name of the service, policy or function being assessed

Directorate

Is this a policy or a function Policy Function

Is this a new or existing policy or function Policy Function

Names and roles of the people carrying out the Impact Assessment

(Explain why the members of the impact assessment team were selected ie the knowledge and experience they bring to the process. Also identify lead contact.)

	Name	Role, Knowledge & Experience
1	Michael Watson	Policy Officer, Policy Lead on Implementation of Mental Capacity Act 2005

Service Head	David Clear
Signature	
Date	18.04.2007

Once you have filled in this document please send a copy to the Faith Equality and Diversity Team

SECTION 1

AIMS & IMPLEMENTATION OF THE POLICY

Identifying the aims of the policy

What is the policy?

What is the aim, objective or purpose of the policy?

The aim of the policy is to ensure that the provisions and key principles of the Mental Capacity Act 2005 are adhered to.

Rationale behind the policy and its delivery

Please state the underlying policy objectives that underpin this service and what they are trying to achieve.

Are there associated objectives of the policy? If so what are they?

What outcomes do we want to achieve from this policy?

What factors contribute/detract from the outcomes?

The Mental Capacity Act is based on a number of fundamental principles and it is vital that these principles are incorporated into both the formal operation of the department i.e. policies and procedures as well as the way that managers and staff operate on a day to day basis.

Every adult has the right to make his/her own decisions and must be assumed to have capacity to do so unless it is proved otherwise

People must be given all appropriate help before anyone concludes that they cannot make their own decisions

Individuals must retain the right to make what might be seen as eccentric or unwise decisions

Anything done for or on behalf of people without capacity must be in their best interests

Anything done for or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms

Who is affected by the policy? Who is intended to benefit from it and how?

Who are the main stakeholders in relation to the policy?

What outcomes would other stakeholders want from this policy?

Are there any groups which might be expected to benefit from the intended outcomes but which do not?

The policy applies to all staff of Blackpool Social Services and all staff of agencies contracted by Blackpool Social Services in dealing with all Service Users, except those detained under the Mental Health Act 1983

All Service Users

People working in a professional capacity e.g. a social worker

People who are receiving payment for work in acting in relation to the person without capacity (for example, a care assistant working in a residential care home)

People who are paid to work with people without capacity

Volunteers acting in relation to the person without capacity (for example, a volunteer sitter working in a service user's home)

Anyone who is an attorney under the Lasting Power of Attorney.

Anyone who is a deputy appointed by the Court of Protection

Anyone acting as an Independent Mental Capacity Advocate

Anyone carrying out research approved in accordance with the Mental Capacity Act

Promotion of good relations between different communities

(How does the policy or function contribute to better Community Cohesion?)
How do you promote good relations between different communities you serve based on mutual understanding and respect?
What opportunities are there for positive cross-cultural contact between these communities to take place e.g. between younger and older people, or between people of different religious faiths?
The policy is not intended to directly promote good relations between different communities.

(Specifically identify the relevance of the aims of the policy to the equality target groups and the Council's duty to eliminate unlawful racial discrimination, promote equality of opportunity and good relations between people of different racial groups).
No specific relevance to individual equality groups. The policy applies to all Service Users.

Policy Priorities:

How does the policy relate to other policies and practices within the council?
What factors/forces could contribute/detract from the outcomes?
How do these outcomes meet or hinder other policies, values or objectives of the council?
The Policy is in keeping with the provisions of the Mental Capacity Act 2005 and informs the way duties and practices under current social care law are discharged.

How is the policy implemented

(How is, or will, the policy be put into practice and who is, or will be, responsible for it?)
Who defines or defined the policy?
Who implements the policy?
How does the council interface with other bodies in relation to the implementation of this policy?
Is the service provided solely by the Department or in conjunction with another department, agency or contractor?
If external parties are involved then what are the measures in place to ensure that they comply with the Council's Equal Opportunities policy?
The content of the Policy is largely determined by the Mental Capacity Act 2005. The Policy will be applied by all staff working with all Service Users who may, or who have been assessed as lacking capacity. The Mental Capacity Act will also apply to partner agencies, in particular the NHS and care providers who will have to develop and implement their own policy. A Department of Health funded training programme is in place to ensure the Policy is applied consistently within Social Services.

SECTION 2

CONSIDERATION OF DATA & RESEARCH

List all examples of quantitative and qualitative data available that will enable the impact assessment to be undertaken

<p><i>Include information where appropriate from other directorates, Census 2001 etc.</i></p> <p>Blackpool Figures, Office of National Statistics (Census Information), National Statistics reports (Department of Work and Pensions)</p>
<p>Population</p> <p>Blackpool has a total population of 142,283, 48% men and 52% women (similar to national gender balance).</p>
<p>Marital Status</p> <p>In total 42% of Blackpool's adult population is single, 29% is within their first marriage, and a further 29% is remarried, separated, divorced or widowed. In contrast the North West figures are 45%, 34% and 21%, and England's figures are 44%, 35% and 21%</p>
<p>Children/Caring Responsibilities</p> <p>The percentage of households with dependent children is lower in Blackpool (26.1%) than regionally (30.5%) and nationally (29.5%).</p>
<p>Ethnicity/Religion</p> <p>Blackpool has a very low number/percentage of people from BME communities with 98.4% classifying themselves as white. The percentages are lower in the North West (94.4%) and in England (90.9%).</p>
<p>Sexuality</p> <p>The percentage of people indicating they live in a same sex relationship is higher in Blackpool at 0.5% than in the North West or England (0.2%).</p>
<p>Age</p> <p>Blackpool has an older population than in the North West and in England as a whole</p> <ul style="list-style-type: none"> - 20% of the population is over 65 in Blackpool, as oppose to 16% in England and North West. - 16% of the population in Blackpool aged 16-74 are classed as economically inactive/retired, as oppose to 14% regionally and nationally. - There are more retired women than men.
<p>Health</p> <p>Blackpool has more people in poorer health than regionally and countrywide</p> <ul style="list-style-type: none"> - 14% of Blackpool population indicate they are not in good health, this is higher than in North West (11%) and within England (9%) - 25% believe they have a limiting long term illness in Blackpool, this is higher than in North West (21%) and within England (18%). - 10% of people between 16-74 are permanently sick or disabled and economically inactive. Percentages are 8% for the NW and 5 for England. In Blackpool approximately a third more men than women are in this category. - 42.9% of households in Blackpool include one or more person with a limiting long-term illness, statistics in the North West are 38.4% and in England 33.6%.
<p>Incapacity Benefit/Severe Disablement Allowance (from Feb 2006 figures)</p> <p>In Blackpool 10,530 people receive incapacity benefit and 990 people receive or severe disablement allowance making a total of 11,520. This is a higher proportion of the population than regionally or nationally.</p> <p>There has been a reduction in the number of people claiming Incapacity Benefit, between Feb 2005 and Feb 2006 (by -2.6%), which appears to follow a national downward trend. However between Aug 2001 and Feb 2006 there has been an increase of +2.6% in Blackpool IB claims, which is in line with the national increase of +2.7%, but not with the regional reduction of -4.1% over the same period.</p> <p>There has been a sharper reduction in the numbers claiming Severe Disablement Allowance. Between August 2001 and February 2006 there has been a -19.5% reduction in the number of claimants for SDA in Blackpool, and a steeper decline of -22.7% and -23.5 regionally and nationally over the same period.</p> <p>5% of claimants are under 25, 49% between 25 and 49, 33% between 55-59 and 13% over 60.</p> <p>62% of people claiming these benefits are male (58% in NW, England)</p> <p>76% of people have been claiming for more than 2 years</p> <p>The majority of people claiming these benefits are for are mental disorders (41%), followed by musculoskeletal injuries/conditions(18%).</p>

Equalities profile of users or beneficiaries

(Use the Council's approved diversity monitoring categories and provide data by target group of users or beneficiaries to determine whether the service user profile reflects the local population or relevant target group or if there is over or under representation of these groups)

The Social Services Service User profile does not currently match the community profile.

Equalities profile of staff

(Indicate profile by target groups and assess relevance to policy aims and objectives e.g. Workforce to Reflect the Community. Identify staff responsible for delivering the service including where they are not directly employed by the council)

The Social Services staff profile does not match the community profile but does match the Service User profile.

Evidence of complaints against the service on the grounds of discrimination

(Is there any evidence of complaints either from customers or staff (Grievance) as to the delivery of the service, or its operation, on the equality target groups?)

No evidence of complaints available as the legislation behind the policy is new.

Barriers

(What are the potential or known barriers to participation for the different equality target groups?)

There are no known barriers to participation for the equality target groups.

Recent consultation exercises carried out

(Detail consultation with relevant interest groups, other public bodies, voluntary organisations, community groups, trade unions, focus groups and other groups, surveys and questionnaires undertaken etc. Focus in particular on the findings of views expressed by the equality target groups)

The Mental Capacity Act 2005 underwent extensive consultation before its passage through parliament. The Code of Conduct derived from the legislation by the Department of Health has also been through rigorous consultation with stakeholders and the public before being agreed and published. Social Work management and staff groups were consulted in the development of this Policy and contributed to the assessment of the impact of the Policy.

Identify areas where more information may be needed and the action taken to obtain this data.

(You will need to consider data that is monitored but not reported, data that could be monitored but is not currently

Gaps in information:

The Department does not routinely collect information about Service User sexuality unless of importance to the provision of services.

Action needed:

(Include short-term measures to be taken to provide a baseline where no or little information is available)

There are no plans to routinely collect information about sexuality.

SECTION 3

ASSESSMENT OF IMPACT

Race - Testing of disproportionate or adverse impact

Identify the effect of the policy on different race groups from information available above.

There is no direct link between lacking capacity to make decisions or potentially lacking capacity to make decisions and individual race groups.

How is the race target group reflected in the take up of the service?

The current Social Services Service User profile does not match the community profile as there are social characteristics of some race groups that mean that they are less likely to access services.

From the evidence above does the policy affect, or have the potential to affect, racial groups differently and if so do any of the differences amount to adverse impact or unlawful discrimination?

There will be no direct or indirect impact on different race groups.

If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for one racial group or for another legitimate reason?

No adverse impact.

Could the policy discriminate, directly or indirectly and if so is it justifiable under legislation?

There is no evidence that the Policy will discriminate directly or indirectly.

Gender - Testing of disproportionate or adverse impact

Identify the effect of the policy on gender groups from information available above.

There is no direct link between lacking capacity to make decisions, or potentially lacking capacity to make decisions, and gender.

How is the gender target group reflected in the take up of the service?

The Service User profile is broadly similar to the community profile but is slightly skewed towards women as women tend to live longer.

From the evidence above does the policy affect, or have the potential to affect, gender groups differently and if so do any of the differences amount to adverse impact or unlawful discrimination?

There will be no direct or indirect impact on different equality groups although the Policy is likely to beneficially affect more women than men.

If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for one gender group or for another legitimate reason?

No adverse impact.

Could the policy discriminate, directly or indirectly and if so is it justifiable under legislation?

There is no evidence that the Policy will discriminate directly or indirectly. It is the intention of the Policy to ensure fairer treatment for people who lack capacity or who may lack capacity.

Disability - Testing of disproportionate or adverse impact

Identify the effect of the policy on the disability target group from information available above.

There is no direct link between lacking capacity to make decisions, or potentially lacking capacity to make decisions, and disability.

How are disabled people reflected in the take up of the service?

The profile of Service Users is broadly similar to the community profile.

From the evidence above does the policy affect, or have the potential to affect, disability groups differently and if so do any of the differences amount to adverse impact or unlawful discrimination?

There will be no direct or indirect impact on disability groups. People with an acquired brain injury and people with a learning disability may benefit from the Policy.

If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for one disability group or for another legitimate reason?

No adverse impact.

Could the policy discriminate, directly or indirectly and if so is it justifiable under legislation?

There is no evidence that the Policy will discriminate directly or indirectly. It is the intention of the Policy to ensure fairer treatment for people who lack capacity or who may lack capacity.

Age - Testing of disproportionate or adverse impact

Identify the effect of the policy on different age groups from information available above.

There is no direct link between lacking capacity to make decisions or potentially lacking capacity to make decisions and different age groups. However, older people may be more likely to lack capacity in some circumstances.

How are young and old reflected in the take up of the service?

Older adults are more likely to use social care services than younger adults due to deteriorating health.

From the evidence above does the policy affect, or have the potential to affect, age groups differently and if so do any of the differences amount to adverse impact or unlawful discrimination?

As the Policy aims to ensure that people who lack capacity are treated the same as those who have capacity, there will be a positive impact in promoting equality.

If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for one age group or for another legitimate reason?

No adverse impact.

Could the policy discriminate, directly or indirectly and if so is it justifiable under legislation?

There is no evidence that the Policy will discriminate directly or indirectly. It is the intention of the Policy to ensure fairer treatment for people who lack capacity or who may lack capacity.

Lesbian, Gay, Bisexual - Testing of disproportionate or adverse impact

Identify the effect of the policy on different lesbian, gay and bisexual (LGB) groups from information

There is no direct link between lacking capacity to make decisions or potentially lacking capacity to make decisions and individual equality target groups.

How are LGB groups reflected in the take up of the service?

Information on sexuality is not recorded by the Department.

From the evidence above does the policy affect, or have the potential to affect, LGB groups differently and if so do any of the differences amount to adverse impact or unlawful discrimination?

There is no evidence that the policy will have a negative effect.

If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for one LGB group or for another legitimate reason?

No adverse impact.

Could the policy discriminate, directly or indirectly and if so is it justifiable under legislation?

There is no evidence that the Policy will discriminate directly or indirectly. It is the intention of the Policy to ensure fairer treatment for people who lack capacity or who may lack capacity.

Religion/Belief - Testing of disproportionate or adverse impact

Identify the effect of the policy on different religious/belief groups from information available above.

There is no direct link between lacking capacity to make decisions or potentially lacking capacity to make decisions and religion/belief.

How is the religious/belief target group reflected in the take up of the service?

The Service User profile is not representative of the community profile.

From the evidence above does the policy affect, or have the potential to affect, religious/belief groups differently and if so do any of the differences amount to adverse impact or unlawful discrimination?

There is no evidence that the policy will have a negative effect.

If there is an adverse impact, can it be justified on the grounds of promoting equality of opportunity for one religious/belief group or for another legitimate reason?

No adverse impact.

Could the policy discriminate, directly or indirectly and if so is it justifiable under legislation?

There is no evidence that the Policy will discriminate directly or indirectly.

Health Impact - Testing of disproportionate or adverse impact

Identify the effect of the policy on physical or mental health of service users and the wider community from any information that is available.

(This might include an increased risk to health for some groups in the community, which although not intended, may have still occurred. The impact on health might include: increased mental stress, greater risk of accident or injury, reduced opportunities to have a quality diet, reduced opportunity for physical exercise, or greater incidence of diseases such as heart disease and diabetes.)

There is no link between lacking capacity to make decisions or potentially lacking capacity to make decisions and individual equality target groups.

From the evidence above does the policy affect, or have the potential to affect the health of groups differently? If so, which groups and how does the impact occur?

The Policy will benefit people with dementia, mental health problems, and acquired brain injury may benefit from the policy. There is no evidence that the policy will have a negative effect.

Additional groups which may experience a disproportionate or adverse impact

Identify if there are groups, other than those already considered, that may be adversely affected by the

For example those in poverty may be adversely impacted by the policy and it might be useful to consider them as
No additional disproportionate impact identified.

Additional factors which may influence disproportionate or adverse impact

Management Arrangements

(How is the Service managed, are there any management arrangements which may have a disproportionate impact on the equality target groups?)

The Policy outlines an approach to statutory duties that will become part of the way that people work. As such it is the responsibility of line management to ensure that the law is upheld.

What is the custom and practice in the provision or allocation of this service?

(Could these have a disproportionate impact on the equality target groups?)

No custom or practice as Policy and legislation that it is based on is entirely new.

The Process of Service Delivery

(In particular look at the arrangements for the service being provided).

The Mental Capacity Act 2005 enshrines current national good practice in law. Workers will need to show that they are adhering to the Policy and this should be evident at supervision.

Operation Times

(When is the service provided; are there seasonal issues; are there barriers to the service based on the time and delivery of the service which may affect the target groups?)

Not applicable

Methods of communication to the public and internally

(What methods do you use to communicate this service? Include review and assessment of methods, media, translations, interpretation etc. bearing in mind the extent to which these media forms are accessible to all

Externally

The Policy will receive a formal launch and copies will be provided to partner agencies to assist with the development of their own policy. Nationally the Mental Capacity Act 2005 has received substantial media coverage highlighting the new regulations and principles under Social Care staff and others should work.

Internally

Staff will receive formal training tailored to the level of knowledge that they require, from basic awareness to specialist practitioner and non practitioner training.

Awareness of Service by Local People

(Assessment of the extent to which local people are aware of the service based on available data. What measures do you undertake to reach traditionally excluded communities?)
The Mental Capacity Act has been widely publicised nationally. Community groups have released information further publicising people's rights under the new legislation. Groups most likely to be beneficially affected by the Act are likely to know about the new provisions.

Evidence of disproportionate or adverse impact

(Is there any evidence or view that suggests that different equality, or other, target groups in the community have

Yes No

If yes, what and why (State below)



Equality Impact Assessment of Policy on Mental Capacity Consultation

Blackpool Council Housing and Social Services Department strives to provide services in a fair, and consistent manner and we actively seek to promote equality for all our service users and carers. For this reason we are making 'Equality Impact Assessments' of our policies and functions to identify how they could (potentially) have a negative effect on:

- People from an Ethnic Minority Group
- Younger or Older People
- People who are Married, Single, Separated, Divorced or Widowed
- Men, Women or Transgender people
- People With A Disability
- People With Dependents (including Carers)
- People with a particular religious belief
- Gay Men, Lesbian Women or people who are Bi-sexual

The policy that we are currently assessing is our Policy on Mental Capacity, which sets out Social Services Policy on mental capacity in reponse to changes in the law brought about by the introduction of the mental Capacity Act 2005. The impact of the policy has already been looked at in detail by a group of Council staff but we want to include the views of anyone in our community who 'belongs' to one (or more) of these groups or represents the interests of any of these groups/issues.

Please note that a large proportion of the policy has been defined by central government and cannot be changed. However, we can examine the way the Policy is applied and the format it is accessible in.

We have formulated a series of questions in the following pages. The first section is an opportunity for you to give us know your comments and opinions with regard to potential negative effects on any of the groups listed above. The second section of questions gives you the opportunity to comment on the Policy itself. Please read the Policy and let us know your views. You may choose to answer some or all of these questions.

We are interested in your feedback in whatever form you choose to give it. You may wish to offer your comments in your own way. This could be by writing, email, telephone or in person.

Analysis Of Our Information

We have looked closely at the Equality Target Groups and at how many people from these groups are receiving services from us, and found out the following:

Older People - Key Facts

The average (mean) age of our service users is 72. The average age of the local population is currently 50 but is getting higher year on year.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that Older People could be treated less favourably?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat Older People more equally?*

Marital Status - Key Facts

In Blackpool 28.5% of people are Single (never married), 45.4% are married or re-married 3% are separated, 12.2% are divorced and 10.9% are widowed.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that people could be treated less favourably because of their Marital Status?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat people more equally?*

Men and Women – Key Facts

The resident population of Blackpool, as measured in the 2001 Census, was 142,283, of which 48 per cent were male and 52 per cent were female.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that people could be treated less favourably because of their sex?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat men and women more equally?*

Disability – Key Facts

25% (35,600) of people in Blackpool have a disability or long term illness. In England and Wales 18% of people have a disability or long term illness.

There are 5700 people in Blackpool who get Attendance Allowance because they have a disability.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that people with a disability could be treated less favourably?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat people with a disability more equally?*

Ethnicity – Key Facts

Blackpool has a very small minority ethnic population – only 1.6% compared to 9.1% in England.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that people from minority ethnic groups could be treated less favourably?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat people from minority ethnic groups more equally?*

Religion – Key Facts

The Department does not consistently capture data about religion.

78.6% of people in Blackpool describe themselves as Christian.

0.9% of the Blackpool population follows Muslim, Buddhist, Jewish and Hindu faiths.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that people could be treated less favourably because of their religion?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat people with different religions more equally?*

Sexuality – Key Facts

Details of sexuality are not recorded by the Department.

About 37% of the population nationally believe that gay men, lesbians and bisexual men and women are discriminated against in the provision of public services.

Key Questions

- *Is there anything in what the Policy says we should do that could mean that people could be treated less favourably because of their sexuality?*

- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat people more equally?*

People Who Care For Children And Adults – Key Facts

There are 1934 people on the Blackpool Carers database. Census information suggests that there are 15380 Carers in Blackpool.

10.8% of the population in Blackpool are Carers compared with 10% in England and Wales.

40% of Carers change every year.

Nationally, thirteen per cent of full-time workers are carers. Nationally, seventeen per cent of part-time workers are carers

Key Questions

- *Is there anything in what the Policy says we should do that could mean that Carers could be treated less favourably because of the effects of their caring responsibilities?*
- *Is there any way we can change what is in the Policy, or the way that we do what the Policy says, that would mean we would treat Carers more equally?*